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EXAMINER

PIZIALI, JEFFREY J

ART UNIT

PAPER NUMBER

2629

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/647,059	<b>Applicant(s)</b> CRANE ET AL.	
	<b>Examiner</b> Jeff Piziali	<b>Art Unit</b> 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2008 and 12 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-15 and 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Drawings*

1. The drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the figures.

### *Specification*

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Election/Restrictions*

3. *Applicant's election of Invention I (claims 1-5 and 7-10)* in the reply filed on 30 December 2008 is acknowledged and appreciated.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

4. *Claims 11-15 and 17-20 are withdrawn* from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 30 December 2008.

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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Objections***

6. Claims 4, 5, and 10 are objected to because of the following informalities:

7. The term "***the viewing display is sized for viewing by one of the user's eyes***" in claim 4 (line 1) is a relative term which renders the claim indefinite. The term "***sized for viewing***" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For example:

It would be unclear to one having ordinary skill in the art how big or small the "***viewing display***" must be before it would qualify as being adequately "***sized for viewing by one of the user's eyes.***"

8. Claim 4 is objected to, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections.

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An omitted structural cooperative relationship results from the claimed subject matter:

**"one of the user's eyes"** (line 2). For example:

It would be unclear to one having ordinary skill in the art whether this limitation is intended to be identical to, or distinct from, the earlier claimed *"at least one of the user's eyes"* (claim 1, line 7).

9. Claim 10 recites the limitation **"the display"** (line 9). There is insufficient antecedent basis for this limitation in the claim. For example:

It would be unclear to one having ordinary skill in the art whether this limitation is intended to refer to the earlier claimed *"a display assembly"* (claim 9, line 3) and/or *"a viewing display"* (claim 9, line 3).

Appropriate correction is required.

10. Claim 5 is objected to, as being dependent upon an objected base claim.

11. The claims are objected to, as being unclear.

As a courtesy to the Applicant, the examiner has attempted to also make rejections over prior art -- based on the examiner's best guess interpretations of the invention that the Applicant is intending to claim.

However, the lack of clarity in the claimed subject matter naturally hinders the Office's ability to search and examine the application.

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Any instantly distinguishing features and subject matter that the Applicant considers to be absent from the cited prior art is more than likely a result of the unclear nature of the claims.

The Applicant is respectfully requested to correct the unclear nature of the claims, which should going forward result in a more precise search and examination.

***Claim Rejections - 35 USC § 112***

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

14. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01.

An omitted structural cooperative relationship results from the claimed subject matter:

***"one of the user's eyes"*** (line 2). For example:

It would be unclear to one having ordinary skill in the art whether this limitation is intended to be identical to, or distinct from, the earlier claimed *"at least one of the user's eyes"* (claim 1, line 7).

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15. Claim 8 recites the limitation "***a second base***" (line 3). There is insufficient antecedent basis for this limitation in the claim. For example:

A "*first base*" has not been earlier claimed.

16. Claim 8 recites the limitation "***another of the user's eyes***" (line 4). There is insufficient antecedent basis for this limitation in the claim. For example:

It would be unclear to one having ordinary skill in the art whether this limitation is intended to refer to the earlier claimed "*one of the user's eyes*" (claim 8, line 2) and/or "*at least one of the user's eyes*" (claim 1, line 7).

17. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

As a courtesy to the Applicant, the examiner has attempted to also make a rejection over prior art -- based on the examiner's best guess interpretations of the invention that the Applicant is intending to claim.

However, the indefinite nature of the claimed subject matter naturally hinders the Office's ability to search and examine the application.

Any instantly distinguishing features and subject matter that the Applicant considers to be absent from the cited prior art is more than likely a result of the indefinite nature of the claim.

The Applicant is respectfully requested to correct the indefinite nature of the claim, which should going forward result in a more precise search and examination.

***Claim Rejections - 35 USC § 102 / 103***

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

21. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 102(b) as anticipated by *Ichikawa et al (US 5,266,930 A)*; or, in the alternative, under 35 U.S.C. 103(a) as obvious over *Ichikawa et al (US 5,266,930 A)* in view of *Nishimine (JP 2000-284214 A)*.

Please note: The following rejection explanation makes reference to the provided English translation of *Nishimine*.



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Regarding claim 1, **Ichikawa** discloses a headgear system [*e.g.*, *Figs. 1, 7, 12, 23, 25, 31, 32, 34, 35, 43*] comprising:

a headgear [*e.g.*, *Fig. 1; helmet 5*] with

an upper headgear portion [*e.g.*, *Fig. 1; skull guard portion of 5*] for being worn on a user's head and

a lower headgear portion [*e.g.*, *Fig. 1; chin guard portion of 5*] extending from the upper headgear portion for extending forwardly relative to a lower front portion of the user's head and below the users eyes (*see the entire document, including Fig. 1; Column 8, Lines 6-59*); and

a display assembly [*e.g.*, *Figs. 1-3, 12-16; 11*] mounted inside the headgear of the headgear system to the lower headgear portion for being located below at least one of the user's eyes (*see the entire document, including Column 8, Line 60 - Column 9, Line 9*),

the display assembly having

an adjustable mount [*e.g.*, *Fig. 15; 52, 53*] and

a viewing display [*e.g.*, *Fig. 13; 6, 41-43*] mounted to the adjustable mount with direct viewing optics [*e.g.*, *Fig. 1; 6, 43*] facing the user and positioned inward from the lower headgear portion for displaying an item of information,

the direct viewing optics being located on the adjustable mount in a position for being below the user's eyes (*see the entire document, including wherein the direct viewing optics [e.g., Fig. 1; 6, 43] are connected to the adjustable mount [e.g., Fig. 2; 15-21] via the headgear [e.g., Fig. 1; 5]*),

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the item of information being visible when said at least one of the user's eyes looks downwardly (*see the entire document, including Fig. 1; eyesight line*) at the viewing display where

the direct viewing optics face said at least one of the user's downwardly looking eyes, the display assembly being configured to be adjustable by the user while the headgear system is worn by the user for changing an orientation of the viewing display and the direct viewing optics,

the display assembly having a first rotatable joint [*e.g., Fig. 16; 57<sub>1</sub>, 57<sub>2</sub>*] that is rotatable about a rotatable horizontal axis [*e.g., Fig. 16; Y axis*] relative to said headgear and said at least one of the user's eyes for allowing the viewing display to be tilted upwardly and downwardly, and

the first rotatable joint extending upwardly from a second rotatable joint [*e.g., Fig. 15; 51a*] that is rotatable about a rotatable vertical axis [*e.g., Fig. 15; X axis*] fixed relative to said headgear and in front of said at least one of the user's eyes for allowing the viewing display to rotate about the vertical axis,

the viewing display being supported by the first rotatable joint between upright side members [*e.g., Figs. 14-16; 51*] that extend upright from the second rotatable joint and surround the vertical axis on opposing sides (*see the entire document, including Column 11, Line 37 - Column 13, Line 42*).

Should it be shown that ***Ichikawa*** teaches the claimed "*display assembly*" subject matter with insufficient specificity:

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Firstly, **Ichikawa** discloses an alternate display assembly arrangement that entails directly connecting the direct viewing optics [*e.g.*, *Fig. 15; 103, 104*] to the display assembly, so as to reflect display light from the display [*e.g.*, *Fig. 15; 101*] toward the eye of an observer wearing the helmet, as opposed to using the helmet shield itself [*e.g.*, *Fig. 1; 6*] (*see the entire document, including Column 1, Lines 12-29*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to attach a separate plate-like reflector/combiner [*e.g.*, *Fig. 15; 104*] to **Ichikawa's** motorized display assembly [*e.g.*, *Figs. 12-16; 11*], so as to use this reflector/combiner [*e.g.*, *Fig. 15; 104*] in the place of the helmet shield [*e.g.*, *Fig. 1; 6*] -- for example, so as to provide image display even when the helmet shield is open.

Secondly, **Nishimine** discloses a headgear system [*e.g.*, *Figs. 1A*] comprising:

a headgear [*e.g.*, *Fig. 1A; helmet H*] with

an upper headgear portion [*e.g.*, *Fig. 1A; skull guard portion of H*] for being worn on a user's head and

a lower headgear portion [*e.g.*, *Fig. 1A; chin guard portion of H*] extending from the upper headgear portion for extending forwardly relative to a lower front portion of the user's head and below the users eyes; and

a display assembly [*e.g.*, *Fig. 1A, displaying means 3*] mounted inside the headgear of the headgear system to the lower headgear portion for being located below at least one of the user's eyes,

the display assembly having

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an adjustable mount [e.g., *Fig. 1A*; wherein helmet *H* is removable] and  
a viewing display [e.g., *Fig. 1A*, LCD, LED, or CRT projection means 34] mounted to the  
adjustable mount with direct viewing optics [e.g., *Fig. 1A*, lens 36, combiner 32] facing the user  
and positioned inward from the lower headgear portion for displaying an item of information,  
the direct viewing optics being located on the adjustable mount in a position for being  
below the user's eyes,  
the item of information being visible when said at least one of the user's eyes looks  
downwardly at the viewing display where  
the direct viewing optics face said at least one of the user's downwardly looking eyes,  
the display assembly being configured to be adjustable by the user [e.g., *Fig. 1A*; wherein  
helmet *H* is position adjustable] while the headgear system is worn by the user for changing an  
orientation of the viewing display and the direct viewing optics (*see the entire document*,  
*including Paragraphs 15-19*).

*Ichikawa's* and *Nishimine* are analogous art, because they are from the shared inventive  
field of helmet mounted display devices.

Therefore, it would have been obvious to one having ordinary skill in the art at the time  
of invention to attach *Nishimine's* separate plate-like reflector/combiner [*Nishimine: Fig. 1A*,  
combiner 32] to *Ichikawa's* motorized display assembly [*Ichikawa: Figs. 12-16; 11*], so as to  
use this reflector/combiner [*Nishimine: Fig. 1A*, combiner 32] in the place of the helmet shield  
[*Ichikawa: Fig. 1; 6*] -- for example, so as to provide image display even when the helmet shield  
is open.

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Regarding claim 2, **Ichikawa** discloses the headgear is a helmet [e.g., *Fig. 1; helmet 5*], and

the lower headgear portion is a face bar [e.g., *Fig. 1; chin guard portion of 5*] (*see the entire document, including Fig. 1; Column 8, Lines 6-14*).

**Nishimine** also discloses the headgear is a helmet, and  
the lower headgear portion is a face bar (*see the entire document, including Fig. 1A; Paragraphs 15-19*).

Regarding claim 3, **Ichikawa** discloses at least one of the joints have a frictional resistance [e.g., *Figs. 15, 16; 52a, 53a*] so that said at least one of the joints remains in said orientation until moved by the user (*see the entire document, including Column 11, Line 37 - Column 13, Line 42*).

Regarding claim 4, **Ichikawa** discloses the viewing display is sized for viewing by one of the user's eyes (*see the entire document, including Fig. 1; Column 8, Lines 6-14*).

**Nishimine** also discloses the viewing display is sized for viewing by one of the user's eyes (*see the entire document, including Fig. 1A; Paragraphs 15-19*).

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Regarding claim 5, **Ichikawa** discloses the viewing display displays images which are focused at optical infinity (*see the entire document, including Fig. 1; Column 8, Lines 6-14*).

**Nishimine** also discloses the viewing display displays images which are focused at optical infinity (*see the entire document, including Fig. 1A; Paragraphs 15-19*).

Regarding claim 7, **Ichikawa** discloses the display assembly comprises:

- a base [*e.g., Fig. 14; 49*] for mounting to the face bar of the helmet,
- the base having a circular recess [*e.g., Fig. 14; pin 51a hole*] that is connected to an entrance slot [*e.g., Fig. 14; outside pin 51a hole entering box 49*];
- a rotatable member [*e.g., Fig. 14; supporting pin 51a*] having at least a partial circular portion that has a snap fit into the circular recess of the base through the entrance slot,
- the rotatable member being rotatable within the circular recess about the vertical axis;
- and
- the upright side members extending from the rotatable member,
- the viewing display being rotatably mounted between the upright side members along the horizontal axis (*see the entire document, including Column 11, Line 37 - Column 13, Line 42*).

Regarding claim 8, **Ichikawa** discloses the display assembly [*e.g., Figs. 32 & 34; 737*] is mounted to the face bar of the helmet for being below one of the user's eyes [*e.g., Figs. 32 & 34;  $E_R$* ],

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the headgear system further comprising a second base [*e.g.*, *Figs. 32 & 34; 738*] mounted to the face bar of the helmet for being below another of the user's eyes [*e.g.*, *Figs. 32 & 34; E<sub>L</sub>*] to allow the user to select the position of said viewing display by snap fitting an associated rotatable member into the desired base (*see the entire document, including Column 8, Lines 3-14 & 40-61; as well as Column 19, Lines 9-17*).

Regarding claim 9, this claim is rejected by the reasoning applied in rejecting claim 1; furthermore, ***Ichikawa*** discloses a headgear system [*e.g.*, *Figs. 1, 7, 12, 23, 25, 31, 32, 34, 35, 43*] comprising:

a headgear [*e.g.*, *Fig. 1; helmet 5*] for being worn by a user; and

a display assembly [*e.g.*, *Figs. 1-3, 12-16; 11*] having a viewing display mounted to the headgear of the headgear system,

the display assembly being configured to be adjustable [*e.g.*, *via Fig. 15; 52, 53*] by the user while the headgear system is worn by the user for changing an orientation of the viewing display,

the display assembly having a first rotatable joint [*e.g.*, *Fig. 16; 57<sub>1</sub>, 57<sub>2</sub>*] that is rotatable about a rotatable horizontal axis [*e.g.*, *Fig. 16; Y axis*] relative to said headgear and at least one of the user's eyes for allowing the viewing display to be tilted upwardly and downwardly, and

the first rotatable joint extending upwardly from a second rotatable joint [*e.g.*, *Fig. 15; 51a*] that is rotatable about a rotatable vertical axis [*e.g.*, *Fig. 15; X axis*] fixed relative to said headgear and in front of said at least one of the user's eyes for allowing the viewing display to rotate about the vertical axis,

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the viewing display being supported by the first rotatable joint between upright side members [*e.g.*, *Figs. 14-16; 51*] that extend upright from the second rotatable joint and surround the vertical axis on opposing sides (*see the entire document, including Column 11, Line 37 - Column 13, Line 42*).

Should it be shown that ***Ichikawa*** teaches the claimed "*display assembly*" subject matter with insufficient specificity:

Firstly, ***Ichikawa*** discloses an alternate display assembly arrangement that entails directly connecting the direct viewing optics [*e.g.*, *Fig. 15; 103, 104*] to the display assembly, so as to reflect display light from the display [*e.g.*, *Fig. 15; 101*] toward the eye of an observer wearing the helmet, as opposed to using the helmet shield itself [*e.g.*, *Fig. 1; 6*] (*see the entire document, including Column 1, Lines 12-29*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to attach a separate plate-like reflector/combiner [*e.g.*, *Fig. 15; 104*] to ***Ichikawa's*** motorized display assembly [*e.g.*, *Figs. 12-16; 11*], so as to use this reflector/combiner [*e.g.*, *Fig. 15; 104*] in the place of the helmet shield [*e.g.*, *Fig. 1; 6*] -- for example, so as to provide image display even when the helmet shield is open.

Secondly, ***Nishimine*** discloses a headgear system [*e.g.*, *Figs. 1A*] comprising:

a headgear [*e.g.*, *Fig. 1A; helmet H*] for being worn by a user; and



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a display assembly [*e.g., Fig. 1A, displaying means 3*] having a viewing display [*e.g., Fig. 1A, LCD, LED, or CRT projection means 34, lens 36, combiner 32*] mounted to the headgear of the headgear system,

the display assembly being configured to be adjustable [*e.g., Fig. 1A; wherein helmet H is position adjustable*] by the user while the headgear system is worn by the user for changing an orientation of the viewing display (*see the entire document, including Paragraphs 15-19*).

*Ichikawa's* and *Nishimine* are analogous art, because they are from the shared inventive field of helmet mounted display devices.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to attach *Nishimine's* separate plate-like reflector/combiner [*Nishimine: Fig. 1A, combiner 32*] to *Ichikawa's* motorized display assembly [*Ichikawa: Figs. 12-16; 11*], so as to use this reflector/combiner [*Nishimine: Fig. 1A, combiner 32*] in the place of the helmet shield [*Ichikawa: Fig. 1; 6*] -- for example, so as to provide image display even when the helmet shield is open.

Regarding claim 10, this claim is rejected by the reasoning applied in rejecting claim 7.

### ***Response to Arguments***

22. Applicant's arguments filed 12 August 2008 have been fully considered but they are not persuasive.

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The Applicant contends, "*Ichikawa does not teach or suggest a 'display assembly having a first rotatable joint that is rotatable about a rotatable horizontal axis relative to said headgear and said at least one of the user's eyes for allowing the viewing display to be tilted upwardly and downwardly, and the first rotatable joint extending upwardly from a second rotatable joint that is rotatable about a rotatable vertical axis fixed relative to said headgear and in front of said at least one of the user's eyes for allowing the viewing display to rotate about the vertical axis, the viewing display being supported by the first rotatable joint between upright side members that extend upright from the second rotatable joint and surround the vertical axis on opposing sides,'*" (see Page 11 of the Response filed 12 August 2008). However, the examiner respectfully disagrees.

***Ichikawa*** discloses a display assembly [e.g., Figs. 1-3, 12-16; 11] having a first rotatable joint [e.g., Fig. 16; 57<sub>1</sub>, 57<sub>2</sub>] that is rotatable about a rotatable horizontal axis [e.g., Fig. 16; *Y axis*] relative to said headgear and said at least one of the user's eyes for allowing the viewing display to be tilted upwardly and downwardly, and

the first rotatable joint extending upwardly from a second rotatable joint [e.g., Fig. 15; 51*a*] that is rotatable about a rotatable vertical axis [e.g., Fig. 15; *X axis*] fixed relative to said headgear and in front of said at least one of the user's eyes for allowing the viewing display to rotate about the vertical axis,

the viewing display being supported by the first rotatable joint between upright side members [e.g., Figs. 14-16; 51] that extend upright from the second rotatable joint and surround

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the vertical axis on opposing sides (*see the entire document, including Column 11, Line 37 - Column 13, Line 42*).

Applicant's arguments with respect to claims 1-5 and 7-10 have been considered but are moot in view of the new ground(s) of rejection.

By such reasoning, rejection of the claims is deemed necessary, proper, and thereby maintained at this time.

### ***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The documents listed on the attached '*Notice of References Cited*' are cited to further evidence the state of the art pertaining to headgear systems.

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Piziali whose telephone number is (571) 272-7678. The examiner can normally be reached on Monday - Friday (6:30AM - 3PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chanh Nguyen can be reached on (571) 272-7772. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Jeff Piziali/  
Primary Examiner, Art Unit 2629  
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